

Senate File 2162 - Introduced

SENATE FILE 2162
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 3022)

A BILL FOR

1 An Act providing for the use of an electronic filing system for
2 administrative proceedings by the administrative hearings
3 division of the department of inspections and appeals.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 10A.801, subsection 1, unnumbered
2 paragraph 1, Code 2016, is amended to read as follows:

3 For purposes of [this section article](#), unless the context
4 otherwise requires:

5 Sec. 2. NEW SECTION. 10A.802 **Administrative hearing**
6 **electronic filing system — rules.**

7 1. Notwithstanding section 10A.801, subsection 7, paragraph
8 "b", and section 554D.120, the division may adopt rules pursuant
9 to this chapter and chapter 17A establishing an electronic
10 filing system for contested case and other administrative
11 proceedings conducted by the division and prescribing
12 whether and to what extent the division will accept, process,
13 distribute, and retain electronic records and electronic
14 signatures from appellants, governmental agencies, and other
15 persons with respect to such proceedings.

16 2. If the division adopts rules pursuant to subsection 1,
17 the rules may include but are not limited to the following:

18 a. Defining terms.

19 b. The manner and format in which an electronic record
20 is created, generated, sent, communicated, received, filed,
21 recorded, and stored.

22 c. Establishing the electronic filing system to create,
23 generate, send, communicate, receive, file, record, and store
24 an electronic record.

25 d. How a traditional written signature will relate to an
26 electronic signature.

27 e. The criteria establishing when an electronic document
28 must be electronically signed.

29 f. The type of electronic signature required.

30 g. The manner and format in which an electronic signature is
31 associated with an electronic record.

32 h. Who can create an electronic signature.

33 i. The criteria and procedures to follow when filing
34 an electronic document, including who is allowed to file
35 electronically, how notice is given, and electronic service of

1 process.

2 *j.* Establishing processes and procedures to ensure adequate
3 preservation, integrity, security, disposition, and audit
4 worthiness of the electronic records.

5 *k.* Establishing the criteria for the retention of paper
6 documents when deemed necessary to promote the integrity of
7 electronic records.

8 *l.* Establishing the appropriate level of public access
9 to differing classes of electronic records and other agency
10 records to ensure the confidentiality of any records that are
11 required by law to be confidential.

12 *m.* Establishing any other process or procedures attributable
13 to creating, generating, communicating, storing, processing,
14 and using electronic records and electronic signatures, and how
15 these electronic records and electronic signatures will relate
16 to nonelectronic agency records.

17 3. Rules adopted pursuant to this section shall prevail
18 over any other law, including chapter 17A, or agency rule that
19 specifies the method, manner, or format for sending, receiving,
20 serving, retaining, or creating paper records or other
21 documents related to a contested case proceeding, including
22 but not limited to a request or demand for a contested case
23 proceeding, a notice of hearing, and a proposed or final
24 decision. The division may limit the applicability and scope
25 of any rules adopted pursuant to this section to one or more
26 agencies or by specific case type for the purpose of testing
27 and implementing an electronic filing system.

28 4. An electronic record that complies with the rules adopted
29 under this section shall prevail over any law, including
30 chapter 17A, that requires a written record, and an electronic
31 signature that complies with the rules adopted under this
32 section shall prevail over any law that requires a written
33 signature. An electronic record or signature that complies
34 with rules adopted under this section shall not be denied
35 legal effect or enforceability based solely because of the

1 record's or signature's electronic form. The determination
2 of an electronic record's or signature's legal consequence is
3 determined by this chapter, applicable law, and applicable
4 division and agency rules.

5 5. Any electronic record, including but not limited to a
6 recording or transcription of oral proceedings, maintained in
7 an electronic filing system established by the division shall
8 be the official record of the contested case and maintenance
9 of the record in the system shall satisfy the obligation of an
10 agency to file and maintain any such record.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill permits the administrative hearings division
15 of the department of inspections and appeals to adopt
16 administrative rules establishing an electronic filing system
17 for contested case and other administrative proceedings
18 conducted by the division, notwithstanding Code sections
19 10A.801, subsection 7, paragraph "b", and 554D.120. The rules
20 would also prescribe whether and to what extent the division
21 will accept, process, distribute, and retain electronic
22 records and electronic signatures from appellants, governmental
23 agencies, and other persons with respect to such proceedings.

24 The bill provides for various matters that may be included
25 in the rules. Such matters include but are not limited
26 to electronic records; electronic signatures; criteria and
27 procedures to follow when filing an electronic document;
28 retention of paper documents; processes and procedures to
29 ensure adequate preservation, integrity, security, disposition,
30 and audit worthiness of the electronic records; and public
31 access to electronic records.

32 Rules adopted pursuant to the bill shall prevail over
33 any other law, including Code chapter 17A, or agency rule
34 that specifies the method, manner, or format for sending,
35 receiving, serving, retaining, or creating paper records or

1 other documents related to a contested case proceeding. The
2 bill permits the division to limit the applicability and scope
3 of any such rules to one or more agencies or by specific case
4 type for the purpose of testing and implementing an electronic
5 information processing system.

6 An electronic record that complies with rules adopted
7 under the bill shall prevail over any law, including Code
8 chapter 17A, that requires a written record, and an electronic
9 signature that complies with such rules shall prevail over any
10 law that requires a written signature. An electronic record
11 or signature that complies with such rules shall not be denied
12 legal effect or enforceability based solely because of the
13 record's or signature's electronic form. The bill provides
14 that the determination of an electronic record's or signature's
15 legal consequence is determined by the bill, applicable law,
16 and applicable division and agency rules.

17 The bill provides that an electronic record maintained in
18 an electronic filing system established by the division shall
19 be the official record of the contested case and maintenance
20 of the record in the system shall satisfy the obligation of an
21 agency to file and maintain any such record.